

Senate File 2144 - Introduced

SENATE FILE 2144
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SF 2032)

A BILL FOR

1 An Act relating to the disclosure of behavioral health
2 information for the purpose of patient care coordination,
3 and including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

DISCLOSURE OF BEHAVIORAL HEALTH INFORMATION

1
2 Section 1. Section 125.37, subsection 3, Code 2016, is
3 amended to read as follows:

4
5 3. Notwithstanding the provisions of subsection 1 of this
6 section, a patient's records may be disclosed to only under any
7 of the following circumstances:

8 a. To medical personnel in a medical emergency with or
9 without the patient's consent.

10 b. For purposes of care coordination as defined in
11 section 135.154 if not otherwise restricted by federal law or
12 regulation.

13 Sec. 2. Section 228.2, Code 2016, is amended to read as
14 follows:

15 **228.2 Mental health information disclosure prohibited —**
16 **exceptions — record of disclosure.**

17 1. Except as specifically authorized in subsection 4,
18 section 228.3, 228.5, 228.6, 228.7, or 228.8, or for the
19 purposes of care coordination as defined in section 135.154 if
20 not otherwise restricted by federal law or regulation, a mental
21 health professional, data collector, or employee or agent of
22 a mental health professional, of a data collector, or of or
23 for a mental health facility shall not disclose or permit the
24 disclosure of mental health information.

25 2. a. Upon disclosure of mental health information pursuant
26 to subsection 4, section 228.3, 228.5, 228.6, 228.7, or
27 228.8, or for the purposes of care coordination as defined in
28 section 135.154 if not otherwise restricted by federal law or
29 regulation, the person disclosing the mental health information
30 shall enter a notation on and maintain the notation with the
31 individual's record of mental health information, stating the
32 date of the disclosure and the name of the recipient of mental
33 health information.

34 b. The person disclosing the mental health information shall
35 give the recipient of the information a statement which informs

1 the recipient that disclosures may only be made pursuant to
2 the written authorization of an individual or an individual's
3 legal representative, or as otherwise provided in [this chapter](#),
4 that the unauthorized disclosure of mental health information
5 is unlawful, and that civil damages and criminal penalties may
6 be applicable to the unauthorized disclosure of mental health
7 information.

8 3. A recipient of mental health information shall not
9 disclose the information received, except as specifically
10 authorized for initial disclosure in subsection 4, section
11 [228.3](#), [228.5](#), [228.6](#), [228.7](#), or [228.8](#), or for the purposes
12 of care coordination as defined in section 135.154 if not
13 otherwise restricted by federal law or regulation.

14 4. ~~However, mental~~ Mental health information may be
15 transferred at any time to another facility, physician, or
16 mental health professional in cases of a medical emergency or
17 if the individual or the individual's legal representative
18 requests the transfer in writing for the purposes of receipt of
19 medical or mental health professional services, at which time
20 the requirements of [subsection 2](#) shall be followed.

21 Sec. 3. EFFECTIVE UPON ENACTMENT. This division of this
22 Act, being deemed of immediate importance, takes effect upon
23 enactment.

24 DIVISION II

25 CONDITIONAL ENACTMENT

26 Sec. 4. Section 125.37, subsection 3, Code 2016, as amended
27 in this Act, is amended to read as follows:

28 3. Notwithstanding the provisions of [subsection 1](#), a
29 patient's records may be disclosed only under any of the
30 following circumstances:

31 a. To medical personnel in a medical emergency with or
32 without the patient's consent.

33 b. For purposes of care coordination as defined in section
34 ~~135.154~~ [135D.2](#) if not otherwise restricted by federal law or
35 regulation.

1 Sec. 5. Section 228.2, Code 2016, as amended in this Act,
2 is amended to read as follows:

3 **228.2 Mental health information disclosure prohibited —**
4 **exceptions — record of disclosure.**

5 1. Except as specifically authorized in subsection
6 4, [section 228.3](#), [228.5](#), [228.6](#), [228.7](#), or [228.8](#), or for
7 the purposes of care coordination as defined in section
8 ~~135.154~~ [135D.2](#) if not otherwise restricted by federal law or
9 regulation, a mental health professional, data collector, or
10 employee or agent of a mental health professional, of a data
11 collector, or of or for a mental health facility shall not
12 disclose or permit the disclosure of mental health information.

13 2. *a.* Upon disclosure of mental health information pursuant
14 to subsection 4, [section 228.3](#), [228.5](#), [228.6](#), [228.7](#), or [228.8](#),
15 or for the purposes of care coordination as defined in section
16 ~~135.154~~ [135D.2](#) if not otherwise restricted by federal law or
17 regulation, the person disclosing the mental health information
18 shall enter a notation on and maintain the notation with the
19 individual's record of mental health information, stating the
20 date of the disclosure and the name of the recipient of mental
21 health information.

22 *b.* The person disclosing the mental health information shall
23 give the recipient of the information a statement which informs
24 the recipient that disclosures may only be made pursuant to
25 the written authorization of an individual or an individual's
26 legal representative, or as otherwise provided in [this chapter](#),
27 that the unauthorized disclosure of mental health information
28 is unlawful, and that civil damages and criminal penalties may
29 be applicable to the unauthorized disclosure of mental health
30 information.

31 3. A recipient of mental health information shall not
32 disclose the information received, except as specifically
33 authorized for initial disclosure in subsection 4, section
34 [228.3](#), [228.5](#), [228.6](#), [228.7](#), or [228.8](#), or for the purposes of
35 care coordination as defined in section ~~135.154~~ [135D.2](#) if not

1 otherwise restricted by federal law or regulation.

2 4. Mental health information may be transferred at any time
3 to another facility, physician, or mental health professional
4 in cases of a medical emergency or if the individual or the
5 individual's legal representative requests the transfer in
6 writing for the purposes of receipt of medical or mental health
7 professional services, at which time the requirements of
8 subsection 2 shall be followed.

9 Sec. 6. EFFECTIVE DATE. This division of this Act
10 takes effect upon the assumption of the administration and
11 governance, including but not limited to the assumption of the
12 assets and liabilities, of the Iowa health information network
13 by the designated entity. The department of public health
14 shall notify the Code editor of the date of such assumption by
15 the designated entity.

16

EXPLANATION

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The inclusion of this explanation does not constitute agreement with
the explanation's substance by the members of the general assembly.

19 This bill relates to the disclosure of mental health
20 information for the purpose of the coordination of a patient's
21 care, and includes effective date provisions. The bill is
22 organized by divisions.

23 DIVISION I — DISCLOSURE OF BEHAVIORAL HEALTH INFORMATION.

24 Under current law, a mental health professional, data
25 collector, or employee or agent of a mental health
26 professional, or data collector, or of or for a mental health
27 facility, is prohibited from disclosing or permitting the
28 disclosure of certain mental health information, except as
29 specifically authorized by law. A recipient of mental health
30 information is also prohibited from disclosing mental health
31 information received, except as specifically authorized by law.
32 Records of licensed facilities providing treatment and care
33 of persons with substance-related disorders are confidential
34 except that a patient's records may be disclosed for purposes
35 of a medical emergency. The bill amends these provisions to

1 include in the exception disclosures made by such persons for
2 purposes of a patient's care coordination if not otherwise
3 restricted by federal law or regulation. "Care coordination"
4 is defined in Code section 135.154 as the management of all
5 aspects of a patient's care to improve health care quality.

6 This division is effective upon enactment.

7 DIVISION II — CONDITIONAL ENACTMENT. 2015 Iowa Acts, ch
8 73 (HF 381), division I, creates a new Code chapter 135D which
9 provides for the administration and governance of an Iowa
10 health information network, currently under the authority of
11 the department of public health (DPH), by a nonprofit entity
12 to be designated by DPH through a competitive process. Code
13 chapter 135D will take effect only upon the assumption of the
14 administration and governance of the network by the designated
15 entity from DPH. HF 381 also contains certain transition
16 provisions, including the repeal of Code section 135.154, upon
17 assumption of the administration and governance of the Iowa
18 health information network by the designated entity.

19 This division amends Code sections 125.37 and 228.2 to
20 replace the reference to the definition of care coordination in
21 Code section 135.154 with the corresponding reference to the
22 replacement definition in chapter 135D, contingent upon the
23 assumption of the designated entity of the administration and
24 governance of the network.